

State of U.P. and ors. Vs. Manoj Kumar Singh and anr.

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Court : Allahabad

Decided On : Feb-26-2010

Judge : Uma Nath Singh and; Devendra Kumar Arora, JJ.

Appellant : State of U.P. and ors.

Respondent : Manoj Kumar Singh and anr.

Disposition : Petition dismissed

Judgement :

1. This writ petition arises out of a judgment and order dated 13.08.2009 passed by U.P. State Public Services Tribunal in Claim Petition No. 1496 of 1998.
2. Heard learned Counsel for State and perused the impugned judgment, pleadings and also the documents annexed with writ petition.
3. Respondent, for the first time, was posted as Sales Tax Officer on 16.04.1991. During the course of his service in 1998-99, he was posted on deputation with the Backward Class Welfare Department as an Officer at Jaunpur. On not being given complete charge, he got himself repatriated to his parent department. On inquiry, the Chief Development Officer, Jainpur could not find any irregularity against the petitioner. However, when the respondent was posted at Banda, he received a letter dated 03.02.2001 informing him that on account of certain irregularities a departmental proceeding has been initiated against him. Respondent submitted reply dated 31.08.2001 and was given personal hearing on 07.01.2002. To his

utter dismay and surprise vide letter dated 07.07.2002, he was served with an order of punishment in the nature of censure and stoppage of one increment. His appeal filed to superior authority was rejected without passing a speaking order.

4. An argument has been made on behalf of the State that the Tribunal has committed illegality in passing the impugned order whereby the punishment has been quashed only on the ground that the punishment order did not refer to the relevant provisions where-under the inquiry was initiated and the punishment was passed. The Tribunal has also taken into consideration the fact that the appellate order was non-speaking and casual.

5. We have carefully considered the submissions of learned Counsel and we do not find any infirmity in the order. The Tribunal after considering the materials on record found that the proceedings in question could have been initiated only under Rule 7 of the U.P. Government Servant (Discipline & Appeal) Rules, 1999, and punishment could have been passed under Rule 10(2) thereof, but there is no reference to any such provision in the notice or punishment order. Besides, the appellate order does not contain the reasons for rejection. In addition to that, a judgment of Supreme Court reported in 1999 SCC 759 (State Bank of India and Ors. v. T.J. Paul) has been cited in the impugned judgment to show that a delinquent employee cannot be visited with punishment for misconduct which is not provided/specified in the relevant Rules.

6. A delinquent employee, who files an appeal in expectation that injustice would be corrected by the higher authority, is entitled to know the reasons for rejection of his appeal so as to satisfy himself that the authority has applied his mind. Thus, passing of a non-speaking and scanty order would not be justified. That apart, absence of reference to provisions where-under alone a departmental proceeding can be initiated against a public servant and he can be punished, would make such an order of punishment unsustainable in law. It may also amount to violation of the principles of natural justice inasmuch as the public servant would be deprived of vital information about the provisions of law where-under he is being proceeded against in the departmental inquiry so that he could properly defend himself.

7. In view of all the aforesaid, this writ petition being devoid of merits is dismissed.

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